IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WA.No. 1577 of 2007

AGAINST THE ORDER IN WPC.8046/2007 Dated 09/03/2007

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APPELLANT/PETITIONER:

NAGENDRAN, AGED 65 YEARS,
S/O. KUTTY, H.NO.19/210, VISHALA BHAVAN,
T.D. ROAD, PALLURUTHY, KOCHI.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS/ RESPONDENTS:

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1. BRANCH MANAGER,
FEDERAL BANK LIMITED, PARVANA JUNCTION,
MATTANCHERRY.

2. CHIEF MANAGER (AUTHORISED OFFICER),
FEDERAL BANK LIMITED, REGISTERED OFFICE,
ALWAYE.

BY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1577 OF 2007

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Dated this the 5th July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The notice issued under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('Act' for short) dated 01.01.2007 was the subject matter of the Writ Petition. By the impugned notice, the respondents-Bank had directed the petitioner to pay a sum of Rs. Five lakhs with interest thereon .

2. The vires of the Act is upheld by the Apex Court. The Apex Court has also stated that if for any reason, for recovery of dues to a financial institution, the institution is at liberty to issue a notice under section 13(2) of the Act. If, for any reason, the defaulter is aggrieved by the said notice, he/she has to file appropriate objections before the financial institution itself. If such objections are filed, the financial institution is expected to consider that objections and pass appropriate orders, under section 13(4) of the Act. If the party is aggrieved by the orders so passed by the financial institution, he/she has to file an appropriate appeal before the Debt Recovery Tribunal.

3. The petitioner, instead of doing so, has directly approached this court in a Writ Petition, questioning the very notice issued by the respondents. In our opinion, the learned single Judge, was not even justified in entertaining the Writ Petition. However, in exercise of extra ordinary jurisdiction, the

learned single Judge has thought it fit to grant some instalment facility to the petitioner to pay off the amount due to the respondents. Even that order is questioned by the petitioner, by filing a Writ Appeal before this court. Sometimes, sympathies are shown by the courts. The parties would take it as misplaced sympathies and then try to agitate the matter, questioning the orders passed by the courts on sheer sympathies, by way of appeals. These type of attitudes of the parties require to be discouraged and nipped in the bud itself by the courts.

4. The interim order passed by this court, is neither arbitrary nor perverse. Therefore, no interference with the said order is called for. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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